

Chapter 42

SUBDIVISIONS, DEVELOPMENTS AND PLATTING*

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***Editor's note**—Section 2 of Ord. No. 99-262, enacted March 24, 1999, amended Ch. 42 to read as herein set forth. Prior to amendment by Ord. No. 99-262, Ch. 42 pertained to similar subject matter and derived from Ord. No. 85-1878 enacted 10-23-85.

Editor's note—Section 10 of Ord. No. 99-262 adopted March 24, 1999, states: That each of the following shall be processed and considered by the director of the planning and development department or the planning commission, as appropriate, pursuant to the provisions of chapter 42, Code of Ordinances, Houston, Texas, in effect prior to the effective date of this chapter, and the former provisions of chapter 42 are saved for that limited purpose:

1. Any complete application for a subdivision plat or development plat that is filed with the department of planning and development prior to the effective date of this chapter;
2. Any final plat and subsequent recorded plat that are based on a preliminary plat approved by the planning commission prior to the effective date of this chapter;
3. Any plat to be recorded based on a final plat approved by the planning commission prior to the effective date of this chapter; or
4. For a period of 90 days following the effective date of this chapter, any application for a subdivision plat or development plat whose applicant satisfactorily demonstrates to the director of the planning and development department that the development plat or subdivision plat reflects a project for which design or engineering work resulting in the application had commenced and was in process prior to the effective date of this chapter. The director of the planning and development department, with the advice of the city attorney, is hereby authorized to promulgate a form upon which an applicant can utilize the provisions of this paragraph.

Notwithstanding the foregoing, an applicant may withdraw any complete application for the approval of a subdivision plat or a development plat that has not been approved by the director of the planning and development department or the planning commission, as appropriate, before the effective date of this chapter and may resubmit the application after the effective date of this chapter without the requirement of paying any additional application fee. An applicant may withdraw any general plan, subdivision plat or development plat that would be subject to the provisions of this section at any time and submit a new application for a general plan, subdivision plat or development plat after the effective date of this chapter.

With respect to a subdivision plat, the applicability of the former provisions of chapter 42 as authorized by this section shall continue until the earlier of the recordation of the subdivision plat for which the application was made or four years after the effective date of this chapter. With respect to a development plat, the applicability of the former provisions of chapter 42 as authorized by this section shall continue until the earlier of the issuance of the last building permit required for the project or two years after the effective date of this chapter if no building permit is issued within the two-year period.

Cross references—Buildings, Ch. 10; flood hazard areas, Ch. 19; planning and development, Ch. 33; streets and sidewalks, Ch. 40; subdivisions generally, Ch. 41.

ARTICLE I. IN GENERAL

Sec. 42-1. Definitions.

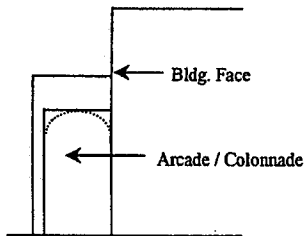
As used in this chapter, the following terms shall have the meanings ascribed in this section unless the context of their usage clearly indicates another meaning:

Alley shall mean a public or private right-of-way that is not used primarily for through traffic and that provides vehicular access to rear entrances to buildings or properties that front on an adjacent street.

Amending plat shall mean an amending subdivision plat prepared and approved under the applicable provisions of chapter 212 and this chapter.

Applicant shall mean the owner of property or the owner's authorized agent who applies for a subdivision plat, development plat, general plan or street dedication plat pursuant to this chapter.

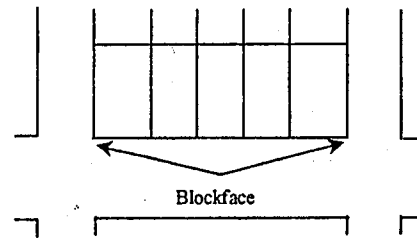
Arcade/colonnade shall mean a series of arches or columns with a roof attached to the face of a building creating an unenclosed covered pedestrian space.



Arcade/colonnade

Block shall mean one or more lots, tracts or parcels of land bounded by streets, easements, rights-of-way or other physical features or a combination thereof.

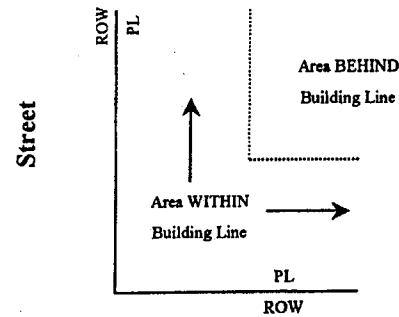
Blockface shall mean that portion of a block that abuts a street between two intersecting streets.



Blockface

Building shall mean any structure used or intended for supporting or sheltering any use or occupancy.

Building line shall mean the line shown on a subdivision plat or development plat establishing the building line requirement. An area is within the building line if it lies between the building line and the property line adjacent to a street or private street and is behind the building line if it lies to the interior of the property from the building line.



Building line

Building line requirement shall mean the minimum required distance from an easement or a property line adjacent to a street or private street in which no improvements requiring a building permit can be constructed on the property.

Building permit shall mean an official document or certificate issued by the building official authorizing performance of a specified activity under the Construction Code.

Central business district shall mean the area beginning at the intersection of the centerline of U.S. 59 and the centerline of I.H. 45; thence in a

northwesterly and northerly direction along the centerline of I.H. 45 to its intersection with the centerline of I.H. 10; thence in an easterly direction along the centerline of I.H. 10 to its intersection with the centerline of U.S. 59; thence in a southwesterly direction along the centerline of U.S. 59 to its intersection with I.H. 45, the point of beginning.

Chapter 212 shall mean Chapter 212 of the Texas Local Government Code, as it may be amended from time to time.

Class I plat shall mean a subdivision plat that meets the applicable requirements of section 42-23 of this Code.

Class II plat shall mean a subdivision plat that meets the applicable requirements of section 42-23 of this Code.

Class III plat shall mean a subdivision plat that is not a Class I plat or a Class II plat.

Collector street shall mean a public street that is not a major thoroughfare or a local street, but that distributes traffic between major thoroughfares and other streets.

Commission shall mean the planning commission of the city.

Compensating open space shall mean one or more areas designated as common open space on a subdivision plat or a development plat that are used to reduce the minimum lot size requirements pursuant to the provisions of article III of this chapter.

Courtyard shall mean a space, open and unobstructed to the sky, located at or above grade level on a lot or parcel and bounded on two or more sides by walls of a building.

Cul-de-sac shall mean a street with only one outlet that terminates in a vehicular turnaround appropriate for the safe and convenient reversal of traffic movement.

Department shall mean the department of planning and development of the city.

Design manual shall mean the department of public works and engineering design manual for

wastewater collection systems, water lines, storm drainage and street paving, as it may be amended from time to time.*

Develop/development shall mean any activity for which a development plat is required by this chapter.

Development plat shall mean a site plan prepared and approved pursuant to section 42-22 of this Code.

Director shall mean the director of the department or the director's designees.

Dwelling unit shall mean a structure, or a portion of a structure, that has independent living facilities including provisions for nontransient sleeping, cooking and sanitation.

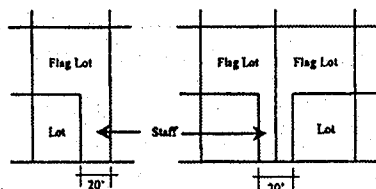
Extraterritorial jurisdiction shall mean the unincorporated territory extending beyond the corporate boundaries of the city established pursuant to chapter 42 of the Texas Local Government Code, as may be amended from time to time.

Filing date shall mean the date on which a subdivision plat is formally presented to the commission for its consideration as part of the commission's official meeting agenda, which shall be considered as the initial date of the statutory 30-day time period in which the commission is required to act upon a subdivision plat submitted to it under the provisions of chapter 212.

Final plat shall mean a map or drawing of a proposed subdivision prepared in a manner suitable for recording in the appropriate county map, plat or real property records and prepared in conformity with the requirements of article II of this chapter.

***Editor's note**—Section 4 of Ord. No. 99-262, adopted March 24, 1999, states: That the design manual for wastewater collection systems, water lines, storm drainage and street paving (the "design manual") attached to and made a part of this Ordinance as Exhibit "A". Exhibit A is not set out in this chapter. Exhibit A is hereby approved and authorized as a regulation of the department of public works and engineering. The city engineer is hereby authorized to promulgate regulations amending the design manual from time to time as the city engineer deems appropriate.

Flag lot shall mean a lot whose frontage on and access to the street right-of-way is provided by a narrow driveway, access easement or other parcel of land referred to as the "staff" of the flag lot.



Flag lot

Frontage shall mean that portion of any lot or tract that abuts a street. A lot or tract abutting more than one street shall have frontage on only one street, which shall be deemed to be the side of the lot or tract with the shortest dimension unless otherwise indicated on the subdivision plat or development plat.

General plan shall mean a map illustrating the general design features and street layout of a proposed development of land that is to be subdivided and platted in sections.

Local street shall mean a type 1 permanent access easement and a public street that is not a major thoroughfare or collector street.

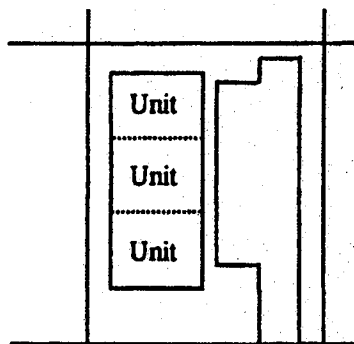
Lot shall mean: (1) in the context of a subdivision plat, an undivided tract of land intended for single-family residential use contained within a block and designated on a subdivision plat by numerical identification; or (2) in the context of a development plat, a parcel intended as an undivided unit for the purpose of development.

Major thoroughfare shall mean a public street designated as a principal thoroughfare or thoroughfare on the latest edition of the major thoroughfare and freeway plan.

Major thoroughfare and freeway plan shall mean the latest edition of the major thoroughfare and freeway plan adopted by the commission and approved by the city council.

Multi-family residential shall mean the use of property with one or more buildings on a parcel designed for and containing an aggregate of three

or more dwelling units. Multi-family residential includes apartments, condominiums, boarding-houses, triplexes and quadriplexes.



Multi-family residential

Nonresidential shall mean any use that is not multi-family residential or single-family residential.

Off-street parking shall mean vehicular parking that is provided in a location other than in a public right-of-way.

Open space amenities plan shall mean a plan submitted as part of a subdivision plat application that specifies how each area not otherwise eligible to be used as compensating open space will be improved and maintained with amenities such as parks, nature trails, picnic areas or other similar facilities that render the compensating open space accessible to and useable by the owners of lots in the subdivision.

Parcel shall mean any quantity of land capable of being described with such definiteness that its location and boundaries can be established that is designated by its owner as land to be used or developed as a unit or that has been used or developed as a unit. Parcel includes an easement supporting or related to a primary parcel, and a condominium unit.

Permanent access easement shall mean a privately maintained and owned street easement approved by the commission that provides for vehicular access to three or more single-family residential units and which shall be either a Type

1 permanent access easement or a Type 2 permanent access easement, each of which is defined in this section.

Permeable shall mean a surface that allows water to pass through it and penetrate into the ground.

Preliminary plat shall mean a map or drawing of a proposed subdivision that illustrates the proposed layout and features of the subdivision submitted to the commission for review and approval, but not suitable for recording in the county map, plat or real property records.

Private drive shall mean a privately owned way used for vehicular travel that is not a street or private street and that provides an unobstructed connection between one or more streets or private streets or to any portion of a parking lot, shopping center, institution, commercial area or industrial development. A private drive may provide for access by the general public, but the owner of the private drive shall maintain the right to restrict public access to the private drive.

Private street shall mean a privately maintained and owned vehicular accessway that provides access from a public street to one or more multi-family residential buildings.

Public street shall mean a public right-of-way, however designated, dedicated or acquired, that provides access to adjacent property.

Recorded map return agreement shall mean a written agreement authorizing the county clerk of the county in which a subdivision plat is filed to return the original recorded subdivision plat to the department.

Remainder tract shall mean the undivided acreage tract that remains when a portion of a tract that is comprised of all contiguous land under common ownership is subdivided pursuant to a subdivision plat.

Replat shall mean a subdivision plat prepared and approved under the applicable provisions of chapter 212 and this chapter.

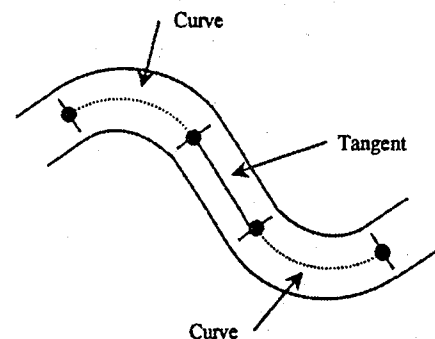
Reserve tract shall mean a parcel of land that is not a lot, but is created within a subdivision plat for other than single-family residential use and is

established to accommodate some purpose for which a division into lots is not suitable or appropriate.

Residential shall mean pertaining to the use of land for premises that contain habitable rooms for nontransient occupancy and that are designed primarily for living, sleeping, cooking and eating therein. A premises that is designed primarily for living, sleeping, cooking and eating therein will be deemed to be residential in character unless it is actually occupied and used exclusively for other purposes. Hotels, suites hotels, motels and day care centers shall not be considered to be residential.

Retail commercial center shall mean a group of commercial establishments contained or to be contained in a building or buildings encompassing a total building area of not more than 100,000 square feet developed as an integrated unit under common ownership or operating as an integrated unit under reciprocal agreements governing all external, nonbuilding space.

Reverse curve shall mean a curve composed of two curves turning in opposite directions.



Reverse curve

Shared driveway shall mean: a private way that (1) is not an extension of any street or private street; (2) has a length not greater than 200 feet from its intersection with the right-of-way of a public street; and (3) provides access to two or more single-family residential lots through appropriate cross-access easements.

Single-family residential shall mean the use of a lot with one building designed for and contain-

ing not more than two separate units with facilities for living, sleeping, cooking and eating therein. A lot upon which is located a free-standing building containing one dwelling unit and a detached secondary dwelling unit of not more than 900 square feet also shall be considered single-family residential. A building that contains one dwelling unit on one lot that is connected by a party wall to another building containing one dwelling unit on an adjacent lot shall be single-family residential.

Special exception shall mean a commission-approved adjustment to a requirement of article III of this chapter that is issued under section 42-82 of this Code.

Street shall mean a public street or a permanent access easement.

Street dedication plat shall mean a plat that illustrates only the location and right-of-way of one or more public streets to be dedicated by the street dedication plat.

Street width exception area shall mean an area so designated by or pursuant to section 42-123 of this Code.

Subdivide shall mean the act or process of creating a subdivision.

Subdivision shall mean the division of a tract of land, including a lot, into two or more parts to lay out a subdivision of the tract, to lay out suburban, building or other lots, or to lay out streets, alleys, squares, parks or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks or other parts, regardless of whether the division is made by a metes and bounds description in a deed of conveyance or in a contract for deed, by using a contract of sale or other executory contract to convey or by using any other method. A subdivision does not include a division of land into parts greater than five acres, where each part has access to a public street and no public improvement is required to be dedicated. A subdivision includes a replat.

Subdivision plat shall mean (1) a map or plan prepared and approved pursuant to the applicable provisions of division II of this chapter show-

ing the proposed subdivision of land or (2) an instrument recorded in the map, plat or real property records of the appropriate county showing the previous subdivision of property. A subdivision plat includes a replat, an amending plat and a vacating plat.

Suburban area shall mean an area of the city or its extraterritorial jurisdiction that is not an urban area.

Title report shall mean a current report, commitment, opinion or title policy that: (1) is prepared and executed by a title company authorized and in good standing to do business in the State of Texas or by an attorney licensed in the State of Texas; (2) provides a legal description of the property proposed to be subdivided or developed; (3) identifies the owner and lienholder of the property subject to the subdivision plat or development plat and the recording information of each instrument by which each owner or lienholder acquired its respective interest; and (4) describes all encumbrances of record that affect the property and the recording information of each instrument by which each encumbrance was established. A title report shall be current if it certifies that the records were examined not more than 30 days from the date of the application to which it applies. For purposes of a replat, a title report shall also include information regarding any deed restrictions applicable to the property or reflect that no deed restrictions apply.

Tract shall mean a parcel.

Type 1 permanent access easement shall mean a permanent access easement at least 50 feet in width that is designed and constructed like a public street in accordance with the design manual and contains one or more public utilities in an unpaved portion of the easement.

Type 2 permanent access easement shall mean a permanent access easement at least 28 feet in width that is designed and constructed like a private street serving a development that has no public utilities other than a public water line connected only to one or more fire hydrants that provides no domestic water services.

Urban area shall mean the area included within and bounded by Interstate Highway 610 and any

other area within the city so designated by the city council pursuant to section 42-101 of this Code.

Utility district shall mean a conservation and reclamation district organized under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution, the creation or enlargement of which requires the consent of the city.

Vacating plat shall mean a vacating plat prepared and approved under the applicable provisions of chapter 212.

Variance shall mean a commission-approved deviation from the requirements of this chapter issued under section 42-81 of this Code.

(Ord. No. 99-262, § 2, 3-24-99; Ord. No. 00-860, § 1, 9-27-00; Ord. No. 02-399, § 87, 5-15-02)

Sec. 42-2. Scope.

This chapter shall apply to all development and subdivision of land within the city and its extraterritorial jurisdiction. This chapter estab-

lishes the general rules and regulations governing plats, subdivisions and development of land within the city and its extraterritorial jurisdiction to promote the health, safety, morals and general welfare of the city and the safe, orderly and healthful development of the city.
(Ord. No. 99-262, § 2, 3-24-99)

Sec. 42-3. Conflict with county regulations.

This chapter shall not be applied in such a manner as to amend or alter any rules, regulations, procedures or policies lawfully and officially adopted by the governing body of any county in which there exists territory contained within the city's extraterritorial jurisdiction. In the circumstance where any rule, regulation, procedure or policy lawfully and officially adopted by the governing body of any county is less restrictive than that contained herein, the standards of this chapter shall apply; provided, however, to the extent that this chapter conflicts with any provision of the Harris County Road Law (Special Laws of the 33rd Texas Legislature, Regular Session, 1913, Chapter 17, as amended), then the provisions of that law, to the extent of conflict, shall apply.
(Ord. No. 99-262, § 2, 3-24-99)

Sec. 42-4. Enforcement and penalties.

(a) It shall be unlawful for any person to lay out, subdivide or plat any land into lots, blocks, tracts or streets within the city, or sell property therein and thereby, if the land has not been laid out, subdivided and platted in accordance with the requirements of this chapter.

(b) The building official shall not issue a building permit:

- (1) For construction on property that was subdivided after March 15, 1963 unless the property is included in a subdivision plat approved and recorded in accordance with this chapter; or
- (2) For a development unless there is attached to the application a development plat approved by the director or the commission.

(Ord. No. 99-262, § 2, 3-24-99)

Sec. 42-5. Penal provisions applicable.

(a) The violation of any provision of this chapter within the corporate limits of the city, including the failure to do any act or perform any duty that is required herein, shall be punishable as provided by section 1-6 of this Code. Each day a violation continues constitutes a separate offense. Prosecution or conviction under this provision shall never be a bar to any other remedy or relief for violation of this chapter.

(b) The violation of any provision of this chapter outside the corporate limits of the city but within the city's extraterritorial jurisdiction shall not constitute an offense, and no fine shall be applicable to the violation.

(c) In addition criminal prosecution, where applicable, the city shall have the right to seek the judicial remedies provided in section 42-6 of this Code for any violation of this chapter within the city or its extraterritorial jurisdiction.
(Ord. No. 99-262, § 2, 3-24-99)

Sec. 42-6. Judicial provisions applicable.

The city, acting through the city attorney or any other attorney representing the city, may file an action in a court of competent jurisdiction to:

- (1) Enjoin the violation or threatened violation by the owner of land of a requirement of this chapter applicable to the land; or
- (2) Recover damages from the owner of a tract of land in an amount adequate for the city to undertake any construction or other activity necessary to bring about compliance with this chapter.

(Ord. No. 99-262, § 2, 3-24-99)

Sec. 42-7. Denial of utility connections.

(a) The building official shall not issue any building permit or other permits required for the installation of any utility, either public or private, to serve:

- (1) Lots or tracts within the city for which a subdivision plat has not been properly recorded as required by this chapter; or

- (2) A development within the city that is subject to the provisions of this chapter, for which a development plat has not been properly approved as required by this chapter.

(b) The utility official shall not permit any tract of land to receive any service from the city water or wastewater collection systems unless, at the time of the application for service, the applicant provides to the utility official satisfactory evidence that the tract of land was subdivided or developed in compliance with this chapter.

(c) In those areas located within the city's extraterritorial jurisdiction, the utility official shall not approve any plans for the construction of any wastewater collection system or domestic water distribution system and the city engineer shall not approve any plans for the construction of storm drainage system within any utility district for which the city has granted its consent for creation or enlargement, unless and until the provisions of this chapter have been complied with for any tract of land served by utilities provided by the utility district.

(Ord. No. 99-262, § 2, 3-24-99)

Sec. 42-8. Forms authorized.

The director is authorized to promulgate forms to use in the implementation of this chapter, including forms for standardized language to be used on the face of subdivision plats and development plats. Prior to the use of any form, the city attorney or the city attorney's designee shall review the form for legal sufficiency and approve each form the city attorney or the city attorney's designee, in his sole professional judgment, determines to be legally sufficient.

(Ord. No. 99-262, § 2, 3-24-99)

Sec. 42-9. Cumulative effect.

This chapter is cumulative of other requirements imposed by ordinances and regulations of the city. To the extent of any inconsistency, the more restrictive provision shall govern.

(Ord. No. 99-262, § 2, 3-24-99)

Secs. 42-10—42-19. Reserved.